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L.A. River gets help from EPA (*Los Angeles Times*)

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L.A. River gets help from EPA;

Agency will decide the waterway's 'navigable' areas, renewing a chance for protection.

BY: Kenneth R. Weiss, Times Staff Writer

The Los Angeles River, the urban waterway often besmirched by graffiti, pollution and Hollywood car chases, has finally gotten a break: The U.S. Environmental Protection Agency has stepped up as its protector.

In an unusual move, the EPA has told the U.S. Army Corps of Engineers that it is stepping into an obscure debate over whether the river and its tributary streams are

"traditional navigable waters."

The bureaucratic designation helps determine whether the upper reaches of the river's watershed in the foothills around Los Angeles deserve protection under the federal Clean Water Act.

"It's import for us to protect urban rivers and waterways around the country," said Benjamin H. Grumbles, an EPA assistant administrator for water. "We are stepping up to ensure that the Clean Water Act tools are applied consistently and fairly and we all work together to protect the L.A. River."

Grumbles sent a letter Sunday to the Corps of Engineers, explaining that his agency would make the final determination of what are navigable waters in the L.A. River and in the Santa Cruz River in Arizona.

The issue, he said, has become important since the U.S. Supreme Court ruled in 2006 that the Clean Water Act protections against pollution would apply to a stream or wetland if it had a "significant nexus" with "traditional navigable waters."

That has been an issue on the L.A. River since a rancher wanted to fill some stream beds in the Santa Susana Mountains north of Chatsworth.

The rancher's request prompted the Corps of Engineers to review the entire river and determine that just a few of its 50-plus miles could be considered navigable.

The Corps' determination would make it easier to develop portions of foothills and mountains that shed water into the L.A. River because developments would not need certain federal permits.

The EPA agrees with the Corps' designation that some of the miles are navigable, Grumbles said. "We think it's important to look at the rest of the river."

He also said the EPA was stepping in to clarify issues raised by the Supreme Court decision and figure out what "navigable" means in the arid West, where rivers typically flow only during wet seasons or when filled with treated water from sewage plants.

Grumbles declined to prejudge a final decision on how much of the river might be considered navigable, and therefore on how much of its 834-square-mile watershed should be protected.

He expected the EPA's review to be completed in coming months.

Environmental groups, which have been critical of the EPA over clean-water rules, view the EPA's move as a hopeful sign.

"The bottom line is that more protection is coming for the L.A. River," said David

Beckman, co-director of the Natural Resources Defense Council's water program. "It's very good for the city's restoration efforts."

EPA to decide key Santa Cruz designation (*Arizona Daily Star*)

By Erica Meltzer

ARIZONA DAILY STAR

The Environmental Protection Agency has taken charge of deciding whether the Santa Cruz River is a "traditional navigable water" of the United States.

Environmental groups pushed hard for the EPA to make the decision after the U.S. Army Corps of Engineers suspended its own designation of the Santa Cruz as a navigable water, a designation that triggers the highest level of environmental protection.

The EPA finding could create a test case for future regulation of rain- or effluent-dependent streams in arid regions.

The EPA informed the corps of its decision to look at both the Santa Cruz River and the Los Angeles River as special cases in a letter released Monday.

Benjamin Grumbles, EPA assistant administrator for water, said recent case law raised a lot of policy questions related to rain-fed streams and streams that rely on effluent.

"Considering there is considerable debate over the Santa Cruz, we thought it important to designate it a special case," he said. "This is an opportunity to explore policy questions around arid streams and will help define what constitutes a traditional navigable waterway in arid areas where streams are dependent on precipitation. Our goal is to ensure environmental protection and regulatory predictability."

Grumbles said EPA officials already have visited the area, and he hopes to make a decision in a matter of weeks or a few months at the most.

He said the Clean Water Act provided other ways to protect the Santa Cruz from pollution if the EPA determines the river does not meet the federal definition of navigability.

The Pima County Board of Supervisors adopted a resolution Monday, before the letter was released, asking the EPA to consider the river a special case and declare it navigable.

County Administrator Chuck Huckelberry, in a memo attached to the resolution, raised a number of concerns about the regulatory impact of the Clean Water Act, particularly on tributaries to the Santa Cruz, some of which are minor washes.

He recommended the county undertake a study of the effectiveness of the Clean Water Act in protecting local riparian areas, as well as investigate a regional approach to Clean Water Act compliance, similar to the way the county has used the Sonoran Desert Protection Plan to comply with the Endangered Species Act.

Supervisor Richard Elías initially balked at including those recommendations in the board's approval of the resolution, saying there was a "disconnect" between the memo and resolution, but at the urging of Supervisors Ramón Valadez and Ann Day, the recommendations were accepted.

Huckelberry said it was not his intent to undermine the resolution.

"The resolution represents the official position of the county, and that's that," he said.

"The studies are just factual analysis. We may find that local efforts are more effective than federal regulation."

David Godlewski, a government liaison for the Southern Arizona Home Builders Association, asked the supervisors not to ask for navigable water designation in the resolution.

Godlewski said home builders would be affected by increased regulation, but SAHBA's larger concern was whether increased regulation would raise the costs of roads, bridges, flood-control projects and wastewater plants.

"In our communications with Huckelberry, I think we're on the same page," he said. SAHBA Vice President Roger Yohem said declaring the Santa Cruz navigable was a "big charade to restrict growth" at the expense of taxpayers.

Rep. Raúl Grijalva praised the EPA's decision to take on the Santa Cruz as a special case, something it has done only six times since 1989, as did Carolyn Campbell, executive director of the Coalition for Sonoran Desert Protection. Campbell also praised the supervisors for adopting the resolution.

"This issue is of paramount importance not just locally for the Sonoran Desert Protection Plan but for its national implications," she said.

In other business, the Board of Supervisors adopted its tax levy and tax rate for 2008 in a party line, 3-2 vote.

The supervisors also adopted a sustainability action plan for county operations.

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